

APPENDIX 2

SCOPING COMMENTS AND RESPONSES

Fourteen comment letters were received in response to the publication of the NOEP. The following is a summary of the primary concerns and/or suggestions and responses to them:

(1) Four letters from individuals supporting the proposed exchange and the opportunity for access to a large block of public land, the opportunity for more efficient management of the public and private lands, and economic benefits to the area from additional people coming to the area to use the block of public land; (No comments were included which required analysis.)

(2) One letter from a special interest group supporting the proposed exchange and the opportunity to dispose of isolated parcels and provide the public with access to a large block of federal land and additional access to State lands; (No comments were included which required analysis.)

(3) One letter from Montana Fish Wildlife & Parks (MT FW&Ps) applauding the efforts to consummate the proposed exchange and providing public access but suggesting that the larger tracts of accessible public land be retained; (Response: The BLM agrees with MT FW&Ps that public access in southeastern Montana is a priority. In fact, a purpose of this land exchange is to create a 20,500 plus acre block of publicly accessible lands. In addition, six tracts of publicly accessible lands totaling 1,943 acres were dropped during our preliminary analysis phase prior to issuing the NOEP.

MT FW&Ps has listed about 4,800 acres of lands with public access which they suggest be dropped from the exchange. MT FW&Ps also suggests that there is sufficient federal land base such that lands with public access not be included in the exchange. This would probably be true if public access were the only factor considered. However, there are many other factors which need to be considered. Following are some examples:

- 1.) The presence of cultural resources, significant fish and wildlife habitat, timber resources, mineral resources and riparian areas/wetlands are other attributes which cause people (internally and/or externally) to request that lands be dropped from an exchange. For example, BLM field surveys have revealed the presence of cultural resources on thousands of acres slated for disposal in this land exchange and this is an issue which will need to be addressed. Another example was an initial request from the US Fish and Wildlife Service to drop parcels that had prairie dog towns. In summary, if parcels are simply dropped because of the myriad of issues and interests involved, the land base that the BLM has available for land exchanges is very quickly and very significantly reduced, making a land exchange program unfeasible.

- 2.) A willing buyer needs to exist in order for The Conservation Fund (TCF) to be able to dispose of the federal lands once it obtains them in the exchange. TCF has already requested that the BLM drop over a thousand acres from the exchange because the surrounding landowners were not interested in buying the parcels. These parcels had no public access, which is the type of parcel that MT FW&Ps suggests be included. Additional potential buyers are likely to drop out once the appraisals are completed and a purchase price is set. So even if a parcel has no public access or any other attribute that would raise any concerns, it may need to be dropped from the exchange anyway.
- 3.) Some of the parcels that MT FW&Ps has identified are scattered parcels which have high relative BLM administrative costs. Retaining these parcels to preserve public access means the BLM continues to incur the high relative administrative costs.

In summary, a land exchange involves tradeoffs, in which many factors need to be considered and many questions answered such as: What are the resource values on the federal lands slated for disposal? Is anyone interested in obtaining those federal lands to begin with? What are the costs associated with retaining those federal lands? The BLM then makes a decision based on an analysis of those tradeoffs. In the case of public access, the BLM believes the tradeoff is acceptable in that the public will gain 20,500 plus acres of publicly accessible and contiguous lands, in exchange for the identified 4,800 acres of scattered publicly accessible lands. The BLM met with the MT FW&Ps on November 5, 2006, to address their concerns and explain the need to use certain lands and had a follow-up meeting on March 21, 2007, re. going with a phased exchange.)

(4) Five letters from adjoining landowners to the Pumpkin Creek Ranch most of which support disposing of the small parcels and creating a larger block of public land, but concerned about the proposed management of the Pumpkin Creek Ranch when and if it is acquired – the major issues they identified were: the neighboring ranchers should have the first chance to lease the grazing; hunting and other uses should be controlled; concern over fence maintenance and repair; water development; and minimizing hazardous fuels build-up; potential spread of livestock disease which may be brought in if anyone other than neighboring ranchers were allowed to run livestock on the allotment; weed and prairie dog control; when the buildings are disposed, the transaction should include a section or two of land with the buildings, don't create small 20-acre plots; concerns of how the ranch would be run; would base property be required to lease the grazing; (Response: In general, the land would be managed under the multiple use policy like other public lands in the area. Specific management of the area will be established by a collaborative comprehensive management plan after the land exchange is completed. Many of the concerns addressed in these letters are beyond the scope of this EA.

Hunting and Control of "Other Uses" such as camping and OHV travel: The BLM will manage the property under existing land use plans, policies, and regulations. With few restrictions cross country travel on BLM administered lands is prohibited. There are existing regulations that allow camping and what the stay limit is on BLM administered

lands. In addition, the MCFO has implemented a hunter patrol program to educate the public land users, improve customer service and improve relationship with land owners. Any additional restrictions or easing of restrictions will be addressed in the management plan.

Issuance of grazing permits: The authorized officer (e.g. field manager) has the discretion to determine the uses which occur on public lands. If the authorized officer determines grazing is a suitable use of the public lands, the BLM would seek public involvement, adhere to NEPA requirements, and coordinate with any affected interests. The issuance of any grazing permits would adhere to federal regulations and be accomplished through the issuance of a grazing decision to all interested parties.

Range Improvement Maintenance and Repair (water and fences): The BLM has the authority to either require range improvement maintenance as a term and condition of the grazing permit or charge an improvement maintenance fee to the permittee. Unless the fence is an established BLM range improvement project where maintenance has been assigned, the BLM would contend to follow state law where the landowner is responsible for maintaining all fencing to the right of the midpoint of the common boundary line as viewed from his land. Additionally, this item would be addressed in a management plan for the lands, which would include public involvement and adhere to any NEPA requirements.

Livestock Disease: The BLM does not have the authority to mandate livestock health requirements. Livestock health requirements are under the authority of the Montana State Veterinarian for state law stipulations and/or the USDA-APHIS State Veterinarian for federal law stipulations.

Weed Control: The BLM cooperates and contacts with the Custer County Weed Board to actively pursue the control of noxious weeds in Custer County. This includes jointly identifying areas for control efforts, the inventory of the existing landscape, and the monitoring of treated areas. The BLM would apply the above cooperation and concept to the acquired lands to address noxious weeds.

Hazardous Fuels: Should be addressed in the management plan.

Prairie Dog Control: Should be addressed in the management plan.

Building Disposal and Associated Acreage: The two tracts of land (farmsteads) with buildings on the Pumpkin Creek Ranch will not be acquired by the BLM in the exchange. These tracts are an estimated 67.07 acres in the S½NE¼ and NE¼SE¼, Section 2, T. 5 N., R. 48 E., lying East of Highway 59 next to the private lands in Tract O-2 and an estimated 29.01 acres in the NE¼NW¼, Section 8, T. 5 N., R. 48 E., lying East of the Tongue River Road next to the private lands in Tract O-3.

Ranch Management: At the present time the BLM contends to develop a management plan for the lands. This would be a comprehensive plan in which would involve public involvement, notification to interested parties, and the adherence to NEPA.)

(5) One letter from an adjoining landowner to one of the scattered federal parcels supporting the tract going to private ownership – the tract is leased to a neighbor but fenced into the commenter’s allotment and used under an exchange of use agreement; (No comments were included which required analysis.)

(6) One letter from a Tribal Historic Preservation Office requesting information about the existence of cultural resources found within the tracts of land to be exchanged; (BLM sent a response to the Tribe on 4/6/07 with a comment period ending on 4/20/07. The letter communicated the findings in the land exchange for cultural resources and to see if the Tribe has concerns over the land exchange, and to seek concurrence in the plans for mitigating impacts to the eligible sites which would be transferred out of federal ownership. To date BLM has not heard from the Tribe. However if BLM receives a response from the tribe BLM will address their concerns. No other tribal requests have been received throughout BLM’s outreach efforts.)

(7) One letter from The Montana Chapter, North American Grouse Partnership expressing concerns about adequate protections for both sage-grouse and sharp-tailed grouse, encouraging all parties, private and federal, to mitigate for any activities that could negatively affect grouse populations and their habitats by: (a) developing rest rotation grazing plans on the exchanged lands that will allow for the enhancement of native grasses and forbs; (b) committing to providing a ¼ mile protective buffer, with no surface disturbance, around each lek that would preserve the integrity of the lek community; (c) committing to protecting all existing sagebrush communities that are within ½ mile of any lek; (d) conducting annual surveys of grouse populations and their associated habitat on the exchanged lands; and (e) not proceeding with implementing the exchange until both parties have a written agreement in place that will ensure the viability of both sage grouse and sharp-tailed grouse on both the BLM and private lands involved – they also requested a written response before the exchange receives final approval. (Response: Presently sage-grouse are classified as a BLM Sensitive Species and are a high priority species for management by the BLM. The BLM National Sage Grouse Conservation Strategy (2004) addresses the management of sage-grouse habitat, potential loss and fragmentation of this habitat, other threats and goals including development of state and local strategies. BLM is an active participant in the Montana Sage-Grouse Working Group which utilizes the Montana Management Plan and Conservation Strategies for Sage-grouse. To the best of our knowledge, the land use on most of the public lands which would go into private ownership will remain essentially the same as the current use, at least for the foreseeable future. Some lands were eliminated from disposal consideration because of their resource values. Further, the Environmental Assessment (EA) for the proposed exchange analyzes the impact to wildlife and other resources resulting from lands leaving public ownership. Based on that analysis, we did not determine a need for conservation easements, covenants, or the like. Regarding the lands which will come into public ownership, a plan for the area will be developed if and when the area is acquired. Livestock grazing will be addressed in the plan, including potential grazing systems. The BLM must ensure grazing allotments meet Standards for

Rangeland Health and Guidelines for Livestock Grazing Management (May, 1997). In addition, we analyze livestock grazing impacts to sage-grouse breeding, brood rearing and winter habitats and mitigate these impacts. BLM has existing stipulations for oil and gas activities on federal surface and federal minerals including a no surface occupancy stipulation within ¼ mile of strutting grounds. A timing stipulation (no surface occupancy from March through mid-June) is also applied if the proposed action is within two miles of a grouse lek. This stipulation only applies to construction related activities. We apply these stipulations to other construction activities including communication facilities and rights-of-way. In regards to off-road vehicle use, the Montana/Dakotas Off-Road Vehicle Plan (ROD, 6/2003) only allows use of existing roads/two-track trails for travel on public lands. Presently, sage and sharp-tailed grouse leks and other crucial habitats (i.e., winter ranges) are priority habitats and minimization of negative impacts is critical. BLM, Montana Fish, Wildlife and Parks and other cooperators conduct annual sage and sharp-tailed grouse lek ground counts annually and will include the Pumpkin Creek area in the survey area for 2006/2007.)